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FOOD SUPPLIES & CONSUMER WELFARE DEPARTMENT

NOTIFICATION

The 30th May, 2013

S.R.O.NO. 392/2013—In exercise of the powers conferred by sub-section (2) of Section 30 of the Consumer Protection Act, 1986 (68 of 1986), the State Government do hereby make the following rules further to amend the Odisha Consumer Protection Rules; 1988, namely:—

1. (1) These rules may be called the Odisha Consumer Protection (Amendment) Rules, 2013.

(2) They shall come into force on the date of their publication in the *Odisha Gazette*.

2. In the Odisha Consumer Protection Rules, 1988 (herein after referred to as the said rules), in rule 2, after clause (h), the following clause shall be inserted, namely:-

“(i)” Consumer Organisation” means any Voluntary Consumer Association registered under the Companies Act, 1956 (1 of 1956) or under any other law for the time being in force.

3. In the said rules, in rule 3, for sub-rules (1) and (2), the following sub-rules shall respectively be substituted, namely: —

“(1) The President of District Forum shall receive the salary or an honorarium at the following rate: —

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| (a) If a person who is a serving District Judge is appointed on whole time basis. | : | The salary of the District Judge. |
| (b) If a person who is a serving District Judge is appointed on part-time basis. | : | Honorarium at the rate of rupees one thousand per day of sitting. |

- (c) If a retired District Judge or a person qualified to be a District Judge is appointed on whole time basis. : A consolidated amount of rupees fifteen thousand per month, over and above the pension received by him.
- (d) If a retired District Judge or a person qualified to be a District Judge is appointed on part-time basis. : Honorarium at the rate of rupees one thousand per day of sitting.

(2) (a) The other Members of the District Forum shall receive a consolidated amount of rupees twelve thousand per month if appointed on whole time basis. If a retired person is appointed as Member on whole time basis shall also receive a consolidated amount of rupees twelve thousand per month over and above pension.

(b) The other Members of the District Forum, appointed on part-time basis, shall receive an honorarium of rupees five hundred per day of sitting”.

4. In the said rules, in rule 3,—

(a) in sub-rule (6), after clause (h), the following clauses shall be inserted, namely: —

“(i) is found guilty of unexplained absence for a period of four days without written permission from State Commission or State Government as the case may be.

(j) found not discharging and attending to duties and not passing orders/judgments as required, by the provisions of Act, rules, regulations and does not display absolute integrity, good conduct and dutifulness”;

“(b) for proviso to sub-rule (6), the following proviso shall be substituted, namely:

“Provided that the Membership of the President or any of the Members of the District Forum shall cease on any of the grounds specified in clauses (F) to (O) either on his admission or on the basis of a finding by an enquiry caused either by the State Consumer Dispute Redressal Commission or the State Government as the case may be and the State Government may also suspend any such member before or during the enquiry to up-hold the credibility of the District Forum.”

(c) after sub-rule (9), the following sub-rule shall be inserted, namely; —

“(10) (a) The process for appointment of President and Members shall be initiated three months before the anticipated vacancy arises.

(b) If a post falls vacant due to resignation or death of a member or creation of a new post, the process for filling of the post shall be initiated immediately.

(c) An advertisement for filling up of the post inviting application from eligible candidates shall be made in leading newspaper of the State or by vacancy circular.

(d) After scrutiny of the applications, the list of eligible candidates shall be placed with all details in tabular form (to be specified) before the selection committee immediately for appointment to different Forums and Commission respectively for consideration.

(e) The Selection Committee on the basis of its assessment shall recommend a panel of three names in order of merit with their applications to the State Government for consideration for appointment, who in-turn verify or cause to be verified the credentials and antecedents of the candidates so found suitable by the appointment subject to his medical fitness”.

5. In the said rules, in rule 4, for sub-rule (2), the following sub-rule shall be substituted, namely:—

“(2) The working days and the office hours of the District Forum shall be the same as that of the State Government Office hours and as per the provisions of Consumer Protections Regulations, 2005”.

6. In the said rules, in rule 4, for sub-rule “(8)”and “(10),” the following sub-rules shall respectively be substituted, namely: —

“(8) If during the proceedings conducted under section 13, District Forums fixes a date for hearing of the parties, it shall be obligatory on the complainant and opposite party or its authorised agent to appear before the District Forum on such date of hearing or any other date to which hearing could be adjourned. Where the complainant or his authorised agent fails to appear before the District Forum on such day, the District Forum may in its discretion either dismiss the complaint for default or decide it on merit in absence of complainant or its authorised agent. Where the opposite party or its authorised agent fails to appear on the day of hearing, the District Forum may decide the complaint *ex parte*”.

“(10) Order of the District Forum shall be signed and dated by the members of the District Forum hearing the complaint and shall be communicated to the parties free of charge and on payment to any other person”.

7. In the said rules, in rule 6, —

(i) for sub-rule (1), the following sub-rule shall be substituted, namely: —

“(1)(a) The President of the State Commission shall receive the salary of the Judge of a High Court reduced by the amount of pension ignoring the non-ignorable pension, when appointed on whole time basis or an honorarium of rupees one thousand five hundred per day of sitting when appointed on part-time basis.

(b) Other Members of State Commission appointed on whole time basis, shall receive a consolidated amount of rupees twenty thousand inclusive of Conveyance Allowance and Telephone Charges per month and if appointed on part-time basis, shall receive an honorarium of rupees one thousand per day of sitting. A retired person appointed as member on whole time basis shall receive a consolidated amount of rupees twenty thousand inclusive of Conveyance Allowance and Telephone Charges per month over and above his pension”.

(ii) in sub-rule (5), after clause (h), the following clause shall be inserted, namely: —

“(i) is found not discharging and attending to duties, responsibilities as required, by the provisions of Act, Rules, regulations and instructions issued from time to time”;

(iii) for the existing proviso to sub-rule (5), the following proviso shall be substituted, namely: —

“Provided that the President or any member of State Consumer Disputes Redressal Commission shall not be removed from his office except by an order made by the State Government on the grounds specified in clauses (f), (g), (h) and (i) above and after an enquiry held by a sitting Judge of the High Court nominated by the Chief Justice of Odisha in which the President or member of the State Commission, as the case may be, has been informed of the charges against him and given a reasonable opportunity of being heard in respect of those charges and found guilty and State Government may also suspend the Member/President at any time during or before enquiring into the charges to uphold credibility of the Commission; and

(iv) after sub-rule (11), the following sub-rules shall be inserted, namely:—

“(12) “President and Members of redressal Agencies i.e. Commission and Forums shall have to work to encourage, guide and educate Voluntary Consumer Organisations of other Organisations/Schools/ Colleges/Other Educational Institutions for the advancement of consumer movement in the State to protect the right, interest and involve themselves in the programmes undertaken by the State and Central Government and submit annual report to Government”.

(13) President or any member of the State Commission, if necessary, shall inspect the functioning of all District Forums of the State at least twice in a year and submit report to Government thereon and also suggest the steps to be taken for the improvement of its functioning to achieve the object and purpose of the Act and recommend to take action against erring members and staff of Forums by Government”.

8. In the said rules, in rule 7, for sub-rule (2), the following sub-rule shall be substituted, namely: —

“(2) The working days and the office hours of the State Commission shall be the same as that of the working hours of the State Government.”

9. In the said rules, in rule 8, —

(i) for sub-rule (6), the following sub-rule shall be substituted, namely: —

“(6) On the date of hearing or any other date to which hearing has been adjourned, it shall be obligatory for the parties or their authorised agents to appear before the State Commission on such date. If appellant or his authorised agent fails to appear on such date, the State Commission may, in its discretion, either dismiss the appeal or decide it on the merit of the cases. If respondent or his authorised agent fails to appear on such date, the State Commission shall proceed *ex parte* and shall decide the appeal *ex parte* on merit of the Case” and

(ii) after sub-rule (9), the following sub-rule, shall be inserted, namely: —

“(10) President/Members of the State Commission/District Forums are to enquire *suo motto* the allegations made in the complaint petition calling

upon the opposite parties or their representatives to file documents, papers in their possession and custody in more so when complained Consumers appear in person to find out the truth”.

10. In the said rules, in rule 11, in sub-rule (1), for clause (xvii), the following clause shall be substituted, namely: —

“(xvii) District Consumer Protection Officer of the District–Member Secretary”.

11. In the said rules, after rule 12, the following rules shall be added, namely: —

“13. Before three months of expiry of the terms of the State/District Consumer Protection Council the process of reconstitution shall start so as to notify the reconstitution of State and District Councils immediately just after expiry of the terms of the existing one”.

14. Exercise the power so conferred under section 27 of the Act, the State Commission and District Forums shall adopt and follow the procedure as so laid down in the Criminal Procedure Code, 1973 and G.R.C.O. (Criminal)”.

ORDER

Ordered that this Notification shall be published in an Extraordinary issue of the *Odisha Gazette*.

[No. 9854-CCA-2/2013/FSCW.]

By Order of the Governor

M.S. PADHI

Commissioner-*cum*-Secretary to Government